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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,694	07/15/2002	Raymond Davies	PA-9946	3743

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AMERSHAM BIOSCIENCES
PATENT DEPARTMENT
800 CENTENNIAL AVENUE
PISCATAWAY, NJ 08855

EXAMINER

SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary	Application No.	Applicant(s)	
	10/069,694	DAVIES ET AL.	
	Examiner	Art Unit	
	David L. Sorkin	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/21/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "toothed drive wheel", "eccentric peg", "gear train", "drive shaft" and "electric servo motor" must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 5 and 6 there is lack of antecedent basis for the phrase "the outer casing". It is unclear if this casing is a required aspect of the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Furlong (US 722,833). Regarding claim 1, Furlong ('833) discloses an apparatus comprising a reservoir (A) having an open top, side walls, end walls and a base (see Figs. 1 and 2; page 1, lines 21-23); a substantially horizontally-disposed mixing plate (F) mounted inside the reservoir, the mixing plate having a plurality of vertical holes extending through the plate (see Figs. 2 and 3; page 1, lines 100-104); and means (f,G) for raising and lowering the mixing plate relative to the reservoir (see Fig. 2; page 1, line 69-74). Regarding claim 2, the reservoir further comprises means (B) for adding samples to the reservoir by means of a reagent feed pipe and means (D,a) for removal or re-circulation of unused liquids from the reservoir by means of an overflow pipe (see Figs. 1 and 2; col. 1 lines). Regarding claim 3, the mixing plate contains an array of holes extending through the plate, the holes being in fixed relationship one with another (see Fig. 3). Regarding claim 4, the mixing plate contains an array of 24 holes (see Fig. 3). While the scope of claim 5 is unclear, the means for raising and lowering includes a piston (G) connected to a source (D). While the reference does not discuss "air", it is considered that air is not a required element of the claim apparatus, but instead a material intended to be used with the claimed apparatus. Regarding claim 7, Furlong ('833) discloses a method for mixing and maintaining particulate materials in liquid suspension (see page 2, lines 1-8), using the apparatus discussed above with regard to claim 1 comprising the steps of introducing a liquid suspension of particulate materials to the mixing chamber of the reservoir, actuating the mixing plate inside the reservoir so

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as to mix and maintain the particulate materials in liquid suspension (see page 1 line 85 to page 2 line 8).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furlong (US 722,833) in view of Dazzi (US 2,786,040). The method of Furlong ('833) was discussed above with regard to claim 7. While Furlong ('833) states that the particulate materials are paint components, a particular paint composition is not disclosed. Dazzi ('040) teaches that including polystyrene results in "new high standard of performance" (see col. 1, lines 17-29). It is considered that it would have been obvious to one of ordinary skill in that art to have made the particulate material of Furlong ('833) be polystyrene to achieve the "new high standard of performance" as taught by Dazzi ('040).

Allowable Subject Matter

8. Claim 6 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The toothed drive wheel into which is set an eccentric peg which engages at slot in the outer casing and is driven

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through a gear train and drive shaft by electric servo motor is not disclosed or fairly suggested by Furlong ('833) which is considered to be the closest prior art.

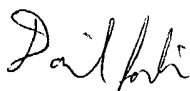
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Sorkin